

**FILED**

Jan 14 2022

Mark B. Busby  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

EDAG ENGINEERING GMBH,

Plaintiff,

v.

BYTON NORTH AMERICA  
CORPORATION,

Defendant.

Case No. 21-cv-04736-EMC (TSH)

**DISCOVERY ORDER**

Re: Dkt. No. 77

In ECF No. 77, Judge Chen granted Plaintiff and judgment creditor EDAG Engineering GmbH's ("EDAG's") application for a judgment debtor examination of Defendant and judgment debtor BYTON North America Corporation ("BNA"). He ordered "one or more officers, directors, managing agents or other persons who are familiar with the property and debts of BNA to appear personally to furnish information to aid in the enforcement of a money judgment by answering questions about BNA's property." *Id.* at 1. Judge Chen further stated that BNA shall designate a witness to "appear personally for a debtor's examination before a Magistrate Judge to be assigned by the Court at a time, date and place to be determined by that Magistrate Judge . . ." *Id.* at 4.

On January 14, 2022, the Court held a hearing to discuss the scheduling of the examination. Counsel for EDAG and BNA both appeared. Counsel for BNA informed the Court that as of January 1, 2022, BNA has no personnel, a fact that counsel only recently became aware of. Discussion at the hearing indicated that BNA has a parent company that is still active, and that BNA's counsel is aware of a former BNA employee who knows information relevant to the examination. The Court explained that a parent company can cause its subsidiary to designate a witness under California Code of Civil Procedure § 708.150(a)(1), and it sounds like counsel

1 knows someone who would be a good designee as an “other person[] who [is] familiar with  
2 [BNA’s] property and debts.” Cal. Code. Civ. Proc. § 708.150(a)(1).

3 Accordingly, the Court orders that the judgment debtor examination of BNA shall take  
4 place on March 11, 2022, starting at 9:00 a.m. The deposition shall take place on the  
5 undersigned’s public Zoom webinar. The link to access the webinar is here:

6 <https://cand.uscourts.gov/judges/hixson-thomas-s-tsh/>. The webinar ID is 161 529 8466. The  
7 password is 526718.

8 **NOTICE TO JUDGMENT DEBTOR. If you fail to appear at the time**  
9 **and place specified in this order, you may be subject to arrest and punishment**  
10 **for contempt of court and the court may make an order requiring you to pay**  
11 **the reasonable attorney’s fees incurred by the judgment creditor in this**  
12 **proceeding.**

13 Pursuant to Cal. Code Civ. Proc. § 708.150(c), the Court further advises BNA of the  
14 following:

15 (1) BNA is legally required to make a designation of one or more officers,  
16 directors, managing agents, or other persons who are familiar with its property and debts  
17 pursuant to Cal. Code. Civ. Proc. § 708.150(a)(1).

18 (2) BNA’s failure to make a designation under Cal. Code. Civ. Proc. §  
19 708.150(a)(1) shall result in this order to appear for the examination to be deemed to have  
20 been made to, and require the appearance of, the following:

21 (A) If BNA is a corporation registered with the Secretary of State, a natural  
22 person named as the chief financial officer in BNA’s most recent filing with the  
23 Secretary of State. If no one is so named, a natural person named as the chief  
24 executive officer in BNA’s most recent filing with the Secretary of State. If no one  
25 is so named, a natural person named as the secretary in BNA’s most recent filing  
26 with the Secretary of State.

27 (B) If BNA is not registered with the Secretary of State or its filings with  
28 the Secretary of State do not identify a natural person as described in in preceding

  
THOMAS S. HIXSON  
United States Magistrate Judge